

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.41775 OF 2015

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the order dated 25.07.2015 passed by the 2nd respondent as arbitrary and illegal and consequently to direct the respondents to allow the petitioner to discharge his duties as Driver pursuant to the proceedings dated 24.2.2014.

Heard Sri S.D.Gowd, learned counsel appearing for the petitioner and Sri A.Rama Rao, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Driver in the respondent-APSRTC, during the year 2006 and during 2012, as his wife has fallen seriously ill, he remained absent for duties from 27.3.2012 to 2.4.2012 and 27.5.2012 to 21.8.2012. But, the respondents without considering the same, treated the said absence as 'unauthorized absence' and after conducting a detailed enquiry and proven mis-conduct, imposed the punishment of removal from service vide order dated 21.8.2012. Aggrieved by the same, the petitioner preferred an appeal before the appellate authority, which in turn, rejected the same vide order dated 27.5.2013. Challenging the said rejection, the petitioner has preferred a

revision before the 2nd respondent, who in turn, has considered the same and ordered for reinstatement of the petitioner into service vide proceedings dated 24.2.2014 by setting aside the removal order dated 21.08.2012, while imposing the punishment of deferment of annual increment for a period of two years, which shall not have effect on his future increments, and directing to treat the removal period not on duty. However, the revisional authority directed the petitioner to report to duty within seven days from the date of the order. But the petitioner has not reported to duty pursuant to the order dated 24.2.2014. When the order passed by the 2nd respondent-revisional authority was not complied with, the revisional authority vide order dated 25.7.2015 has recalled the order of reinstatement and rejected the revision as the petitioner has violated condition No.4 of the order dated 24.2.2014. Challenging the rejection order of reinstatement by the revisional authority, the present writ petition is filed.

Learned Standing Counsel appearing for the respondent-Corporation has contended that the petitioner is in the habit of absenting from duties; when a lenient view was taken, he has not availed the same, and not reported to duty as directed by the revisional authority vide order dated 24.2.2014,

which necessitated the revisional authority to recall the said order and rejected the revision vide order dated 25.7.2015.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that ends of justice would be met if the petitioner be given one more opportunity.

Accordingly, the Writ Petition is disposed of setting aside the order of revision dated 25.7.2015 directing the respondents to give one more opportunity to the petitioner to report to duty and upon such reporting to duty, the respondents shall take the petitioner into service as Driver afresh, subject to his medical fitness. It is made clear that the petitioner should report to duty within two weeks from day, failing which, the order dated 25.7.2015 shall stand restored. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

23rd April, 2018
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